1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 TERRY MONTGOMERY, 11 Petitioner, No. CIV S-04-2116 FCD DAD P 12 VS. 13 W.A. DUNCAN, et al., 14 Respondents. ORDER 15 16 Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of 17 habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States 18 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262. 19 On January 26, 2006, the magistrate judge filed findings and recommendations 20 herein which were served on all parties and which contained notice to all parties that any 21 objections to the findings and recommendations were to be filed within twenty days. Neither 22 party has filed objections to the findings and recommendations. 23 The court has reviewed the file and finds the findings and recommendations to be 24 supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY 25 ORDERED that: ///// 26

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1	1. The findings and recommendations filed January 26, 2006, are adopted in full;
2	2. Respondents' May 31, 2005 motion to dismiss the habeas petition as untimely
3	is denied; and
4	3. Within thirty days from the service of this order, respondents shall file their
5	answer to petitioner's second amended petition for a writ of habeas corpus.
6	DATED:March 6, 2006
7	/s/ Frank C. Damrell Jr. FRANK C. DAMRELL JR.
8	United States District Judge
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